

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MITCHELL TAEBEL,

Petitioner,

-against-

JUSTICE MICHAEL SONBERG,

Respondent.

:
:
:
:
:
:
:
:
:
:
:
:

16cv6337

MEMORANDUM & ORDER

WILLIAM H. PAULEY III, Senior United States District Judge:

Mitchell Taebel brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This Court referred the matter to Magistrate Judge James L. Cott for a report and recommendation. On November 29, 2017, Magistrate Judge Cott issued his Report and Recommendation (the “Report”), recommending that this Court deny Taebel’s petition in its entirety. Thereafter, Taebel filed objections to the Report. Having reviewed the Report and the underlying record, this Court adopts the Report in full and denies Taebel’s objections. Accordingly, this matter is dismissed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). This Court reviews de novo the portions of the Report to which objections are made and reviews the remainder for clear error on the face of the record. 28 U.S.C. § 636(b)(1); Mulosmanaj v. Colvin, 2016 WL 4775613, at *2 (S.D.N.Y. Sept. 14, 2016). Taebel’s objections reiterate the arguments he made to the magistrate judge. (Compare ECF No. 14, at 1, 3 (reiterating claims that witnesses contradicted each other and were not credible), with ECF No. 1, at 5 (claiming that witnesses contradicted each other and were not credible)). It is improper for an objecting party to rehash

the same arguments previously advanced before a magistrate judge. See Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008). As such, Taebel’s objections do not warrant de novo review, and this Court “is only obliged to review the Report for clear error.” See Ortiz, 558 F. Supp. 2d at 451; Vaccariello v. XM Satellite Radio, Inc., 295 F.R.D. 62, 67 (S.D.N.Y. 2013) (“In the event a party’s objections are conclusory or general, or simply reiterate original arguments, the district court also reviews the Report and Recommendation for clear error.”).

Separately, Taebel appends several documents to his filed objections, only some of which are in the record. With respect to the documents that were not in the record before the magistrate judge, it is “well settled that ‘[c]ourts generally do not consider new evidence raised in objections to a magistrate judge’s report and recommendation,’” and such evidence is “merited only in rare cases, where the party . . . has offered ‘a most compelling reason’ for the late production of such evidence, or a ‘compelling justification for [its] failure to present such evidence to the magistrate judge.’” Fischer v. Forrest, 286 F. Supp. 3d 590, 603 (S.D.N.Y. 2018) (citations omitted) (alterations in original); accord Schlichting v. Astrue, 11 F. Supp. 3d 190, 197 (N.D.N.Y. 2012). This is not one of those rare cases—Taebel offers no reason or justification for failing to present these documents to the magistrate judge. As for those documents that are in the record below, they do not support the inferences Taebel asks this Court to draw.

In sum, this Court has reviewed Magistrate Judge Cott’s extremely thorough and well-reasoned Report, and finds that it is not erroneous on its face. See 28 U.S.C. § 636(b)(1)(C). Accordingly, this Court adopts the Report in its entirety and dismisses Taebel’s petition.

Taebel also filed two motions requesting that this Court subpoena any complaints against Justice Michael Sonberg. Those applications are denied.

Finally, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). The Clerk of Court is directed to terminate the motions pending at ECF Nos. 21 and 23 and to mark this case as closed.

Dated: June 5, 2018
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.